

1 Revision shall incorporate the same in the Code.

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3 SECTION 16. EMERGENCY. It is hereby found and determined by the Eighty-
4 first General Assembly that: (I) It is in the public interest to maintain and
5 preserve the commitment of universal availability of reasonably affordable
6 telecommunications services; (II) Competition and growth in the
7 telecommunications industry are affected by demographics and population
8 density. Therefore, telecommunications providers serving high-cost rural areas
9 often have needs that are different from those of telecommunications providers
10 serving only urban areas. Accordingly, the regulatory framework established by
11 this Act seeks to recognize and accommodate the unique factors faced by
12 telecommunications companies serving high-cost rural areas in addition to
13 providing all local exchange carriers with additional regulatory options to
14 assist them in providing telecommunications services and technological
15 advances to their customers; and, (III) It is essential that the State of
16 Arkansas immediately revise its existing regulatory regime for the
17 telecommunications industry to ensure that it is consistent with and
18 complementary to the Federal Telecommunications Act of 1996. Therefore an
19 emergency is declared to exist and this act being immediately necessary for
20 the preservation of the public peace, health and safety shall become effective
21 on the date of its approval by the Governor. If the bill is neither approved
22 nor vetoed by the Governor, it shall become effective on the expiration of the
23 period of time during which the Governor may veto the bill. If the bill is
24 vetoed by the Governor and the veto is overridden, it shall become effective
25 on the date the last house overrides the veto.

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/s/ Hopkins et al

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ATTACHMENT 2

**SIDE-BY-SIDE COMPARISON OF
FEDERAL TELECOMMUNICATIONS ACT OF 1996**

AND

**ARKANSAS TELECOMMUNICATIONS REGULATORY
REFORM ACT OF 1997**

ISSUE	FEDERAL ACT/FCC ORDER	ARKANSAS ACT
A. Authority of PSC	<ol style="list-style-type: none"> 1. ILECs have duty to interconnect at any technically feasible point (§ 251(c)(2)), to provide nondiscriminatory access to unbundled network elements at any technically feasible point (§ 251(c)(3)), and to offer for resale at wholesale rates all services provided at retail to end users (§ 251(c)(4)). 2. PSC "shall resolve" each issue "by imposing appropriate conditions as required" (§ 252(b)(4)(C)). 3. PSC may reject interconnection agreements that are "not consistent with the public interest, convenience, and necessity" (§ 252(e)(2)). 4. PSC may reject agreement if finding it "discriminates against a telecommunications carrier not a party to the agreement" or it "is not consistent with the public interest, convenience, and necessity" (§ 252(e)(2)); PSC "may not approve" statement of general terms unless found to be consistent with § 252(d) and §§ 251 and FCC regulations (§ 252(f)). 5. "State commissions will make critical decisions concerning a host of issues involving rates, terms and conditions of interconnection and unbundling arrangements, and exemption, suspension or modification of the requirements in section 251. The actions taken by a state will significantly affect the development of local competition in that state." (Local Comp. ¶ 137.) 6. Resale restrictions are "presumptively unreasonable" (Local Comp. ¶ 939). Resale of residential services to other, ineligible classes of customers, and resale of lifeline services, may be prohibited. All other limitations are "presumptively unreasonable" (Local Comp. ¶¶ 962-63). 7. PSC may not approve agreement if it discriminates against a telecommunications carrier not a party to the agreement (§ 252(e)(2)); PSC may consolidate proceedings to the extent practical (§ 252(g)). 	<ol style="list-style-type: none"> 1. PSC shall not order ILEC to provide interconnection, resale or unbundled network elements "except to the extent required by the Federal Act" (§ 9(d)). 2. Authority of PSC with respect to interconnection, resale and unbundling is limited to terms, conditions, agreements for ILECs sale of these items to CLECs for purposes of CLECs competing for services to end users (§ 9(f)). 3. "In no event" shall the PSC impose any interconnection requirements that "go beyond" the Federal Act (§ 9(i)). 4. PSC "shall approve" any statement of generally available terms and conditions unless shown by "clear and convincing evidence" that the statement fails to meet the minimum standards of the Federal Act (§ 9(i)). 5. PSC cannot adopt new rules unless required by Federal Act or upon showing that benefits are "clear and demonstrable and substantially exceed the cost of compliance" (§ 11(c)). 6. PSC "shall approve" resale restrictions permitted by Federal Act (§ 9(g)). 7. PSC cannot permit intervenors in arbitration proceedings, or even consolidate hearings (§ 9(j)). 8. Rules must be revised by PSC to apply equally to ILECs and CLECs (§ 11(e)).

ISSUE	FEDERAL ACT/FCC ORDER	ARKANSAS ACT
		<p>9. ILEC may "elect" regulatory scheme which designates rates for basic local exchange and access in place 12 months earlier to be "just and reasonable" (§ 7(a)).</p> <p>10. Rates for other services of such electing carriers not subject to PSC regulation (§ 8(c)).</p> <p>11. PSC forbidden from regulating such rates so long as they stay below capped level (§ 8(a)).</p> <p>12. After 3 years, presence of a CLEC offering basic local exchange requires PSC to deregulate all ILEC services (§ 7(d)).</p>
B. Interconnection	<p>1. ILECs have a duty to interconnect at any technically feasible point (§ 252(c)(3)).</p> <p>2. PSC shall resolve interconnection issues "by imposing appropriate conditions as required" (§ 252(b)(4)).</p> <p>3. PSC "shall resolve" each issue "by imposing appropriate conditions as required" (§ 252(b)(4)(C)).</p>	<p>1. PSC shall not order interconnection "except to the extent required by the Federal Act" (§ 9(d)).</p> <p>2. "In no event" shall PSC impose any interconnection requirements that "go beyond" the Federal Act (§ 9(i)).</p> <p>3. Authority of PSC limited to terms, conditions, agreements for ILEC-to-CLEC arrangements for purposes of CLEC competition in service to end users (§ 9(f)).</p> <p>4. Rural telcos required to honor <i>bona fide</i> request <u>only</u> if PSC finds "clear and convincing evidence" on 10 points (§ 10(c)).</p>
C. Resale	<p>1. ILECs have a duty "to offer for resale at wholesale rates any telecommunications service that the carrier provides at retail" to end users (§ 252(c)(4)(A)), and "not to impose unreasonable or discriminatory conditions or limitations" on resale (§ 251(c)(4)(B)).</p> <p>2. PSC "shall resolve" each issue "by imposing appropriate conditions as required" (§ 252(b)(4)(C)).</p> <p>3. Wholesale prices based on retails rates minus "marketing, billing, collection, and other costs that will be avoided" (§ 252(d)(3)); all "avoidable" costs to be deleted (Local Comp. ¶ 911).</p> <p>4. "Promotional" offerings limited to 90 days (Local Comp. ¶ 950); packaged or "bundled service offerings" must be available at wholesale rates (Local Comp. ¶ 877).</p> <p>5. Resale restrictions are "presumptively unreasonable" (Local Comp ¶ 939).</p>	<p>1. PSC shall not require ILEC to permit resale "except to the extent required by the Federal Act" (§ 9(d)).</p> <p>2. PSC authority with respect to resale limited to terms, conditions, agreements for ILEC sale to CLECs for purposes of CLEC competing in services to end users (§ 9(f)).</p> <p>3. Wholesale rate is costs avoided plus new costs (§ 9(g)).</p> <p>4. Promotional prices, service packages, trial offerings, temporary discounts not required to be available for resale (§ 9(d)).</p> <p>5. PSC "shall approve" resale restrictions of permitted types (§ 9(g)).</p>

ISSUE	FEDERAL ACT/FCC ORDER	ARKANSAS ACT
D. Unbundled Network Elements	<ol style="list-style-type: none"> 1. ILECs have a duty to provide nondiscriminatory access to unbundled network elements at any technically feasible point (§ 251(c)(3)). 2. Prices for unbundled network elements should be based on TELRIC and a reasonable allocation of forward-looking joint and common costs (Local Comp. ¶ 672). 3. "A competitor's ability to provide service would be significantly impaired if they did not have access to incumbent LECs' operator call completion services and directory assistance." 	<ol style="list-style-type: none"> 1. PSC shall not require ILEC to provide unbundled network elements "except to the extent required by the Federal Act" (§ 9(d)). 2. Prices for unbundled network elements must be "actual costs," including allocation of joint and common costs and a reasonable profit (§ 9(e)). "Actual costs" said to include administrative expenses, overhead and appropriate amortization of previously deferred accounting costs" (§ 12(j)). 3. ILECs barred from providing to CLECs operator services, directory listings and assistance, all "except to the extent required in the Federal Act" (§ 9(h)).
E. Universal Service	<ol style="list-style-type: none"> 1. PSC shall designate as "eligible carrier" applicant that meets criteria of § 214(e)(1) (§ 214(e)(2)). 2. "Eligible carrier" may use its own facilities or resell another carrier's services (§ 214(e)(1)(A)). 3. "Eligible carrier" only required to "advertise the availability of such services and the charges therefore using media of general distribution" (§ 214(e)(1)(B)). 	<ol style="list-style-type: none"> 1. Arkansas PSC cannot designate any other telecommunication provider as an "Eligible Carrier" until such provider "accepts the responsibility to provide service to all customers in an ILECs local exchange area using its "own facilities" at least in part, and "offers to serve all customers in its service area" (§ 5(b)(1)). 2. Arkansas PSC must restrict other telecommunications providers from receiving universal service funding other than "for the portion of its facilities that it owns and maintains" (§ 5(b)(2)). 3. Arkansas PSC must make an affirmative determination that designation of an other telecommunications provider as an "Eligible Carrier" is "in the public interest" in both rural and non-rural areas (§ 5(b)(5)).